

REMARKS

The Applicants thank the Examiner for the thorough consideration given the present application. Withdrawn claims 1, 3-5, 7-15, 18-26, 29-37, and 40-49 were previously canceled without prejudice to or disclaimer of the subject matter contained therein. Claims 2, 6, 16, 17, 27, 28, 38, 39, and 50-55 are pending. Claims 2, 6, 16, 27, 38, 54 and 55 are independent, and each is amended. The Examiner is respectfully requested to reconsider the rejections in view of the amendments and remarks set forth herein.

Reasons for Entry of Amendments

At the outset, it is respectfully requested that this Amendment be entered into the Official File in view of the fact that the amendments to the claims automatically place the application in condition for allowance.

In the alternative, if the Examiner does not agree that this application is in condition for allowance, it is respectfully requested that this Amendment be entered for the purpose of appeal. This Amendment was not presented at an earlier date in view of the fact that the Examiner has just now presented new grounds for rejection in this Final Office Action.

Substitute Specification

In accordance with MPEP §608.01(q), the Applicants herewith submit a substitute specification in the above-identified application. Also included is a marked-up copy of the original specification which shows the portions of the original specification which are being added and deleted. The Applicant respectfully submit that the substitute specification includes

no new matter and that the substitute specification includes the same changes as are indicated in the marked-up copy of the original specification showing additions and deletions.

Because the number of amendments which are being made to the original specification would render it difficult to consider the case, or to arrange the papers for printing or copying, the Applicants have voluntarily submitted this substitute specification. Accordingly, the Applicant respectfully request that the substitute specification be entered into the application.

Rejection Under 35 U.S.C. § 102

Claims 16, 17, 27, 28, 38, and 39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Takahashi et al. (U.S. 5,831,676);

claims 2, 6, 50, 51, 54, and 55 stand rejected under 35 U.S.C. § 102(b) as being unpatentable over Takahashi et al. in view of Saruwatari (U.S.6,727,949); and

claims 52 and 53 stand rejected under 35 U.S.C. § 102(b) as being unpatentable over Takahashi et al. in view of Saruwatari and in further in view of Kondo (U.S.5,585,942). These rejections are respectfully traversed.

Complete discussions of the Examiner's rejections are set forth in the Office Action, and are not being repeated here.

Independent claims 2, 6, 16, 27, 38, 54, and 55 are now pending in this application.

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, each of independent claims 2 and 6 has been amended to recite a combination of elements in an apparatus for controlling an aperture of a camera, including *inter alia*

the controlling device capable of setting the aperture out of the aperture range for normal shooting as determined by said second determining device when obtaining at least one of photometry data of automatic exposure and video signals of auto focus, and

the controlling device capable of setting the aperture within the aperture range as determined by said first determining device when recording an image.

Independent claim 16 as currently written recites a combination of steps in a method for controlling an aperture of a camera, including *inter alia*

wherein said aperture is set within the normal shooting range in the shooting mode.

Independent claim 27 as currently written recites a combination of elements in an apparatus of controlling an aperture of a camera, including *inter alia*

the controlling device capable of setting the aperture within the aperture range as determined by the first determining device when shooting in a high-resolution mode, and

the controlling device capable of setting the aperture out of the aperture range for the normal shooting as determined by said second determining device when shooting in a low-resolution mode.

Independent claim 38 as currently written recites a combination of elements in a camera, including *inter alia*

the controlling device capable of setting the aperture within the aperture range as determined by the first determining device when shooting in a high-resolution mode, and

the controlling device capable of setting the aperture out of the aperture range for the normal shooting when shooting in a low-resolution mode.

Further, each of independent claims 54 and 55 has been amended to recite a combination of elements in an apparatus for controlling an aperture of a camera, including *inter alia*

a controlling device for controlling the diaphragm mechanism,

the controlling device capable of setting the aperture in the second aperture range as determined by said second determining device, and

the controlling device capable of setting the diaphragm mechanism the aperture within the first aperture range as determined by said first determining device for recording the image.

In the present application, the "aperture out of the aperture range for the normal shooting" is set outside the normal aperture range that secures the predetermined optical capability (i.e., outside the secured range). By contrast, Takahashi et al. merely discloses the diaphragm control in the normal aperture range, and does not disclose the idea of using "an aperture out of the aperture range for the normal shooting" as in the present invention.

The Examiner asserts that "area A" (Fig. 9) of Takahashi et al. corresponds to the "normal shooting" range of the present invention, and the aperture position (F1.4) used in "area B and area C" corresponds to the "aperture out of an aperture range for a normal shooting".

However, F1.4 of Takahashi et al. is the diaphragm stop of the range that secures the predetermined optical capability. This is different from "aperture out of an aperture range for a normal shooting" in the present invention.

Furthermore, Takahashi et al. merely disclose the exemplar controls of the "program mode" responding to various shooting scenes, and does not teach the use of "the aperture out of the aperture range for the normal shooting" for automatic exposure photometry or video signals of auto focus, as set forth in independent claims 2 and 6.

The Examiner appears to interpret that the control operation of Takahashi et al. by program chart (Fig. 9) can suggest "automatic exposure" of the present invention. However, "automatic exposure" of the claims 2 and 6 exclusively refers to "obtaining the photometry data of automatic exposure" (Fig. 10). Therefore, independent claims 2 and 6 of the present invention are different from the Takahashi et al. device.

Further, each of independent claims 2, 6, 16, 17, 27, 28, 38, 39 of the present invention state that shooting is performed using the "aperture out of the aperture range for a normal shooting".

The Examiner points out the relationship between disclosure of control embodiment of the portrait mode of Takahashi et al. (Fig. 21) and the present invention, however, as stated above, aperture size (F1.4) of Takahashi et al. is a diaphragm position fulfilling the predetermined optical capability that is also available for normal shooting, which is concept different from the "aperture out of the aperture range for the normal shooting" of the present invention.

At least for the reasons explained above, the Applicants respectfully submit that the combination of elements/steps as set forth in each of independent claims 2, 6, 16, 27, 38, 54, and 55 is not disclosed or made obvious by the prior art of record, including Takahashi et al.

Accordingly, each of independent claims 2, 6, 16, 27, 38, 54, and 55 is in condition for allowance.

All dependent claims are in condition for allowance due to their dependency from allowable independent claims, or due to the additional novel features set forth therein.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §102(b) are respectfully requested.

CONCLUSION

Since the remaining patents cited by the Examiner have not been utilized to reject claims, but merely to show the state of the art, no comment need be made with respect thereto.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 205-8000.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for

Application No. 09/873,311

Reply to Office Action of January 23, 2006

Docket No. 0879-0317P

Art Unit: 2615

Page 17 of 17

any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Dated: **APR 24 2006**

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By  # 39,491

for Marc S. Weiner

Reg. No. 32,181

P. O. Box 747

Falls Church, VA 22040-0747

(703) 205-8000

MSW:CTT/bsh 